

§ 12.35–3

§ 12.35–3 Definition.

Passenger ship in this subpart means a ship, other than a Ro-Ro passenger ship, carrying more than 12 passengers when on an international voyage.

§ 12.35–5 General requirements.

If you are an unlicensed person, then, before you may serve on a passenger ship and perform duties that involve safety or care for passengers, you must—

(a) Meet the appropriate requirements of the STCW Regulation V/3 and of section A-V/3 of the STCW Code (incorporated by reference in §12.01-3); and

(b) Hold documentary evidence to show that you do meet these requirements through approved or accepted training.

Subpart 12.40—Non-resident Alien Unlicensed Members of the Steward's Department on U.S.-Flag Large Passenger Vessels

AUTHORITY: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701 and 8103; Department of Homeland Security Delegation No. 0170.1.

SOURCE: USCG-2007-27761, 72 FR 20284, Apr. 24, 2007, unless otherwise noted.

§ 12.40–1 Purpose of rules.

The rules in this subpart implement 46 U.S.C. 8103(k) by establishing requirements for the issuance of merchant mariner's documents, valid only for service in the steward's department of U.S.-flag large passenger vessels, to non-resident aliens.

§ 12.40–3 Definitions.

As used in this subpart:

Large passenger vessel means a vessel of more than 70,000 gross tons, as measured under 46 U.S.C. 14302 and documented under the laws of the United States, with capacity for at least 2,000 passengers and a coastwise endorsement under 46 U.S.C. chapter 121.

Non-resident alien means an individual who is not a citizen or alien lawfully admitted to the United States for permanent residence, but who is employable in the United States under the Immigration and Nationality Act (8

46 CFR Ch. I (10–1–07 Edition)

U.S.C. 1101 *et seq.*), including an alien crewman described in section 101(a)(15)(D)(i) of that Act who meets the requirements of 46 U.S.C. 8103(k)(3)(A).

Steward's department means the department that includes entertainment personnel and all service personnel, including wait staff, housekeeping staff, and galley workers, as defined in the vessel security plan approved by the Secretary under 46 U.S.C. 70103(c). These personnel may also be referred to as members of the hotel department on a large passenger vessel.

§ 12.40–5 General application requirements.

(a) Unless otherwise expressly specified in this subpart, non-resident alien applicants for Coast Guard-issued merchant mariner's documents are subject to all applicable requirements contained in this subchapter.

(b) No application from a non-resident alien for a merchant mariner's document issued pursuant to this subpart will be accepted unless the applicant's employer satisfies all of the requirements of § 12.40–7.

§ 12.40–7 Employer requirements.

(a) The employer must submit the following to the Coast Guard, as a part of the applicant's merchant mariner's document application, on behalf of the applicant:

(1) A signed report that contains all material disciplinary actions related to the applicant, such as, but not limited to, violence or assault, theft, drug and alcohol policy violations, and sexual harassment, along with an explanation of the criteria used by the employer to determine the materiality of those actions;

(2) A signed report regarding an employer-conducted background check. The report must contain:

(i) A statement that the applicant has successfully undergone an employer-conducted background check;

(ii) A description of the employer-conducted background check, including all databases and records searched. The background check must, at a minimum, show that the employer has reviewed all information reasonably and